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8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

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11 FABIO PETROLINO; M.P., a minor,
through her guardian ad litem, Ana
12 Petrolino; ANDRELINA SILVA;
ANGELA PETROLINO; and ALEX
13 PETROLINO,

14 Plaintiffs,

15 v.

16 CITY AND COUNTY OF SAN
FRANCISCO, a municipal corporation;
17 EVE ZEFF, ROEL LAPITAN and
RAPHROGER GONZAGA, Registered
18 Nurses, San Francisco Department of
Public Health; MICHAEL MOHN and
19 RUDY ZAMORA, Sheriff's Deputies, San
Francisco Sheriff's Department;
20 HEALTHRIGHT360, a California not-for-
profit corporation; LAUREN ERICKSON,
21 Mental Health Provider, HealthRight360;
MARY LEFEVRE, Marriage and Family
22 Therapist, HealthRight360; NICK
CRISPINO, Associate Social Worker,
23 HealthRight360; DANIEL MITCHELL,
Officer, California Highway Patrol; and
24 DOES 1 through 50, inclusive,

25 Defendants.

Case No.

**COMPLAINT FOR VIOLATION OF
CIVIL RIGHTS**

JURY TRIAL DEMANDED

INTRODUCTION

1. This is a case about the unnecessary and preventable death of Alberto Petrolino (“Alberto”), a father, son, and brother. On July 28, 2015, Alberto committed suicide in a shower stall at the San Francisco County Jails (“County Jail” or “County Jails”) by hanging himself with a bedsheet. Three days earlier, Alberto had been arrested and taken into custody at the County Jail after threatening to commit suicide. Defendants deliberately ignored obvious warning signs of Alberto’s risk factors for suicidality and acute mental health crisis, and failed to take minimally adequate precautions and interventions to provide Alberto with the mental health care he needed and to protect him from self-harm. Had Defendants provided adequate training and supervision to jail staff and promulgated minimally adequate policies and practices that are standard in their fields, Alberto would have survived his detention at the County Jail. Had Defendants taken Alberto’s known suicide risk into consideration in his housing placement, rather than simply assigning him to a general population unit with inadequate supervision and with easy access to materials that could be used for self-harm, Alberto would have survived his detention at the County Jail. Had Defendants summoned a doctor or qualified mental health professional to provide Alberto the medical and mental health care that he so obviously required due to his deteriorating mental state and heightened risk of suicide, Alberto would have survived his detention at the County Jail. Instead, Defendants acted with deliberate indifference to Alberto’s health and safety and in violation of their duties under federal and state law, causing Alberto’s tragic and needless death.

2. On July 25, 2015, Alberto was arrested by a California Highway Patrol (“CHP”) officer after Alberto’s ex-girlfriend called 911 to report that he had threatened to kill himself on the Golden Gate Bridge. Rather than focus on the reason for the 911 call, the CHP officer looked for and found misdemeanor arrest warrants so that he could take Alberto to the County Jail where he would be warehoused, instead of to a hospital where he would be treated for his mental health crisis.

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1 3. When Alberto arrived at the County Jail, the medical and mental health staff
2 conducting intake and booking declined to send Alberto to San Francisco General Hospital
3 or to have him examined by a qualified doctor or mental health professional, and did not
4 place him in specialized housing for inmates who present a suicide risk. Had Alberto been
5 even minimally supervised, examined, and treated for his mental breakdown, or placed in
6 housing that allowed for greater staff observation, he would not have harmed himself.
7 Instead, during his three-day detention, Alberto was never seen, evaluated, or treated by a
8 doctor, nor was he ever placed in housing for inmates who pose a heightened suicide risk.
9 Defendants deliberately ignored all of the warning signs that Alberto was a danger to
10 himself and that he was arrested near the Golden Gate Bridge shortly after he had
11 threatened to kill himself there. Alberto's sister called the County Jail several times to
12 warn that she feared Alberto would attempt suicide if he were not hospitalized or put in
13 specialized housing. Alberto's mother was so concerned for his well-being that she
14 traveled to the County Jail and spoke with a Deputy Sheriff to make sure that jail staff
15 would take care of her son. Yet nothing was done to aid or assist Alberto during his
16 mental health breakdown.

17 4. On July 27, 2015, Albert lost all hope and was never seen or treated by any
18 mental health staff for the rest of his life. On that date, Alberto went to court and was told
19 that his bail would be set at one-hundred thousand dollars (\$100,000.00)—a sum he knew
20 would be impossible for his family to pay. Alberto immediately became despondent due
21 to the unexpected news that he would remain in jail indefinitely. Despite concerns raised
22 during the bail hearing by Alberto's lawyer that he should be evaluated by qualified mental
23 health professionals to determine whether Alberto needed psychiatric hospitalization and
24 despite the professional standards for jail mental health care requiring that an inmate's
25 psychiatric state be assessed by a mental health provider after a critical event, such as a
26 court appearance, where that inmate may receive bad news, Alberto was not ever seen or
27 evaluated by mental health staff after he returned to the County Jail from his bail hearing.

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1 5. On the evening of July 28, 2015, County Jail custody staff followed the usual
2 routine for inmate showers in the general population unit where Alberto was housed,
3 allowing Alberto unsupervised access to an enclosed shower stall. Alberto was found dead
4 at around 7:35 pm after another inmate saw his dangling toes not touching the floor under
5 the shower stall door. The San Francisco County Medical Examiner concluded that
6 Alberto committed suicide by hanging himself with a piece of cut bedsheet tied to a hinge
7 on the shower stall door. Alberto was the eighth person to commit suicide in the San
8 Francisco County Jails since 2009.

9 6. Alberto did not deserve to die and would have survived his stay at the
10 County Jail (1) if law enforcement officers and jail personnel had taken seriously Alberto's
11 mental health needs and the suicide risk he presented, putting them on notice of Alberto's
12 need for immediate mental health care; (2) if the Sheriff's Deputies and medical and
13 mental health staff at the County Jail had been better trained and had taken seriously the
14 signs and symptoms brought to their attention by Alberto's ex-girlfriend, mother, and sister
15 in the days before his death, and the signs and symptoms observed during and after his
16 July 27, 2015 court appearance; (3) if County Jail staff followed the standard of care in jail
17 mental health to pay special attention to inmates after critical events where they may
18 receive bad news affecting their psychiatric stability; and (4) if there had been appropriate
19 policies, procedures, and training to ensure that inmates in psychiatric distress at the
20 County Jail would be adequately assessed, treated, housed, and supervised. Instead,
21 Defendants, and each of them, deliberately turned their backs on Alberto's special needs
22 and as a direct result, he died.

23 7. Alberto's children, FABIO PETROLINO and M.P., a minor, bring survival
24 actions against Defendants for damages arising out of the violation of Alberto Petrolino's
25 civil rights, as guaranteed by the Fourteenth Amendment to the United States Constitution,
26 pursuant to 42 U.S.C. §§ 1983 and 1988, for violations of Title II of the Americans with
27 Disabilities Act and Section 504 of the Rehabilitation Act of 1973, and for violations of
28 California state law. Plaintiffs FABIO PETROLINO, M.P., ANDRELINA SILVA,

1 ANGELA PETROLINO, and ALEX PETROLINO also seek damages for violations of
 2 their own civil rights by Defendants, as guaranteed by the First and Fourteenth
 3 Amendments to the United States Constitution, and for violations of California state law.

4 **JURISDICTION AND VENUE**

5 8. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331
 6 and 1343 for the federal law claims, and has supplemental jurisdiction over the state law
 7 claims asserted herein pursuant to 28 U.S.C. § 1367, as they form part of the same case
 8 and controversy arising under federal law. The amount in controversy herein, excluding
 9 interest and costs, exceeds the minimum jurisdictional limit of this Court.

10 9. Venue is proper in the Northern District of California pursuant to 28 U.S.C.
 11 § 1391(b)(2), as a substantial part of the events and omissions giving rise to Plaintiffs’
 12 claims occurred within this judicial district, in the City and County of San Francisco.

13 **INTRADISTRICT ASSIGNMENT**

14 10. A substantial part of the events or omissions which give rise to Plaintiffs’
 15 claims arose in the City and County of San Francisco and thus, pursuant to Civil Local
 16 Rules 3-2(c) and (d), assignment to the San Francisco Division of the District Court for the
 17 Northern District of California is proper.

18 **PARTIES**

19 11. Plaintiffs’ decedent is Alberto Petrolino, who, at the time of his death, was a
 20 fifty-year-old citizen of the United States and a resident of the City and County of San
 21 Francisco in the State of California.

22 12. Plaintiffs FABIO PETROLINO (“FABIO”) and M.P. are the children of
 23 Alberto Petrolino. M.P., a minor, is represented in the instant matter by her mother and
 24 guardian ad litem, Ana Petrolino. At the time of his death, Alberto Petrolino had no
 25 surviving spouse and no other children. Accordingly, FABIO and M.P. are Alberto
 26 Petrolino’s sole heirs and successors in interest, as defined by the laws of the State of
 27 California, and are authorized by California Code of Civil Procedure § 377.30 to bring
 28 survival causes of action for damages suffered by Alberto Petrolino prior to his death and

1 that he would have been entitled to recover had he lived. FABIO and M.P., through her
2 mother and guardian ad litem, Ana Petrolino, have executed declarations conforming to the
3 requirements of California Code of Civil Procedure § 377.32, filed herewith. The survival
4 causes of action alleged herein are based on violations of Alberto Petrolino's civil rights as
5 guaranteed by the Fourteenth Amendment, on violations of Title II of the Americans with
6 Disabilities Act and Section 504 of the Rehabilitation Act of 1973, and on violations of
7 California state law.

8 13. Plaintiffs FABIO and M.P. are also suing, individually, for the wrongful
9 death of their father, Alberto Petrolino, and their resulting loss, and for the violation of
10 their civil rights as guaranteed by the First and Fourteenth Amendments, and for violations
11 of California state law.

12 14. Plaintiff ANDRELINA SILVA ("ANDRELINA") is the mother of Alberto
13 Petrolino. She is suing individually for the wrongful death of her son and her resulting
14 loss, and for the violation of her civil rights as guaranteed by the First and Fourteenth
15 Amendments, and for violations of California state law.

16 15. Plaintiff ANGELA PETROLINO ("ANGELA") is the sister of Alberto
17 Petrolino. Plaintiff ALEX PETROLINO ("ALEX") is the brother of Alberto Petrolino.
18 They are suing individually for the wrongful death of their brother and their resulting loss,
19 and for the violation of their civil rights as guaranteed by the First and Fourteenth
20 Amendments, and for violations of California state law.

21 16. Plaintiffs FABIO and M.P. are residents of the City and County of San
22 Francisco in the State of California. Plaintiffs ANDRELINA, ANGELA, and ALEX are
23 residents of the County of Santa Clara in the State of California.

24 17. Defendant CITY AND COUNTY OF SAN FRANCISCO ("CITY AND
25 COUNTY") is a municipal corporation, duly organized and existing under the laws of the
26 State of California. Under its authority, Defendant CITY AND COUNTY operates the
27 San Francisco County Sheriff's Department and the San Francisco County Department of
28 Public Health, and is and was at all times relevant herein responsible for their policies,

1 procedures, customs, and practices, and for the actions and/or inactions of all of its
2 officers, managers, agents, and employees, including Defendants EVE ZEFF, ROEL
3 LAPITAN, RAPHROGER GONZAGA, MICHAEL MOHN, RUDY ZAMORA, and
4 some or all of DOES 1 through 50.

5 18. The San Francisco County Sheriff's Department ("Sheriff's Department")
6 operates and administers the San Francisco County Jails, including San Francisco County
7 Jail No. 1 ("County Jail No. 1"), the Intake and Release Center where all County Jail
8 inmates are booked into the Sheriff Department's custody, and San Francisco County Jail
9 No. 2 ("County Jail No. 2"), where Alberto Petrolino was housed from July 25, 2015 until
10 his death on July 28, 2015. The Sheriff's Department also maintains two jail wards at the
11 San Francisco General Hospital ("S.F. General Hospital") for inmates in need of medical
12 or mental health care requiring hospitalization. The Sheriff's Department is and was
13 responsible for preserving the health and safety of all inmates in the County Jails.

14 19. The San Francisco County Department of Public Health ("Department of
15 Public Health"), through its Jail Health Services division, is and was responsible for
16 providing emergency and basic medical and mental health care services to all County Jail
17 inmates, including those held in the jail wards maintained by the Sheriff's Department at
18 S.F. General Hospital. Jail Health Services oversees and supervises Jail Medical Services
19 and its staff, who are employed by Defendant CITY AND COUNTY. Plaintiffs are
20 informed and believe and thereon allege that Jail Health Services also oversees and
21 supervises Jail Psychiatric Services (also known as Jail Behavioral Health Services), a
22 program of Defendant HEALTHRIGHT360, a not-for-profit corporation that provides
23 mental health care services to all County Jail inmates pursuant to a contract with the
24 Department of Public Health. The Department of Public Health is and was responsible for
25 the policies, procedures, customs, and practices of Jail Medical Services and Jail
26 Psychiatric Services, and the actions and omissions of their agents and employees,
27 including Defendants EVE ZEFF, ROEL LAPITAN, RAPHROGER GONZAGA,
28 LAUREN ERICKSON, MARY LEFEVRE, NICK CRISPINO, and some or all of DOES 3

1 through 50. The Department of Public Health also is and was responsible for the provision
2 of mental health care services to people experiencing severe emotional distress or acute
3 problems relating to mental disabilities, as well as acute psychiatric inpatient care for
4 adults in the City and County of San Francisco, including for individuals who, as a result
5 of a mental disorder, are a danger to others or themselves, or are gravely disabled, pursuant
6 to California Welfare and Institutions Code §§ 5150, *et seq.*

7 20. Defendant HEALTHRIGHT360 is a California not-for-profit corporation,
8 headquartered in the State of California. At all times relevant herein, Defendant CITY
9 AND COUNTY delegated its authority and responsibility to provide mental health care
10 services for all County Jail inmates to Defendant HEALTHRIGHT360, through its
11 program Jail Psychiatric Services (also known as Jail Behavioral Health Services),
12 pursuant to a contract with Defendant CITY AND COUNTY's Department of Public
13 Health. Under this authority, Defendant HEALTHRIGHT360 is and was responsible for
14 providing emergency and basic mental health care services to all County Jail inmates, for
15 making and enforcing the policies, procedures, customs, and practices of Jail Psychiatric
16 Services, and for the actions and omissions of its agents and employees, including
17 Defendants LAUREN ERICKSON, MARY LEFEVRE, NICK CRISPINO, and some or
18 all of DOES 3 through 50. Plaintiffs are informed and believe and thereon allege that
19 Defendant HEALTHRIGHT360 is also responsible for training Defendant CITY AND
20 COUNTY employees with regard to the mental health care needs of inmates in the County
21 Jails, including training on suicide risk assessment and suicide prevention. Defendant
22 HEALTHRIGHT360 is sued for actions and/or omissions under the color of state law.

23 21. Defendant DANIEL MITCHELL is and was at all relevant times herein an
24 Officer of the California Highway Patrol. Defendant MITCHELL arrested Alberto
25 Petrolino at the Golden Gate Bridge on July 25, 2015 and transported him to County Jail
26 No. 1, where he was booked into Defendant CITY AND COUNTY's custody.

27 22. Defendant EVE ZEFF is and was at all relevant times herein employed by
28 Defendant CITY AND COUNTY as a registered nurse for Jail Medical Services, and was

1 acting within the course and scope of that employment. Defendant ZEFF evaluated
2 Alberto Petrolino upon his arrival at County Jail No. 1 on July 25, 2015, conducting a
3 medical triage interview to determine whether he would be referred to S.F. General
4 Hospital for further evaluation and treatment by medical or mental health professionals,
5 yet she instead decided to accept him into County Jail custody.

6 23. Defendant ROEL LAPITAN is and was at all relevant times herein
7 employed by Defendant CITY AND COUNTY as a registered nurse for Jail Medical
8 Services, and was acting within the course and scope of that employment. Defendant
9 LAPITAN conducted a medical intake screening of Alberto Petrolino after he was
10 accepted into County Jail custody on July 25, 2015, yet declined to place him in an
11 Observation Cell for monitoring pending an assessment by Jail Psychiatric Services staff
12 of the suicide risk he presented.

13 24. Defendant LAUREN ERICKSON was at all relevant times herein employed
14 by Defendant HEALTHRIGHT360 as an unlicensed mental health care provider for Jail
15 Psychiatric Services, and was acting within the course and scope of that employment.
16 Defendant ERICKSON conducted a mental health status evaluation of Alberto Petrolino
17 on July 25, 2015, yet decided that he should be housed in the County Jail's general
18 population with no suicide prevention precautions other than a "Do Not House Alone"
19 code on his housing card.

20 25. Defendant DOE 1 was at all relevant times herein employed by Defendant
21 CITY AND COUNTY as a Sheriff's Deputy at the County Jail, and was acting within the
22 course and scope of that employment. Defendant DOE 1 spoke with Alberto Petrolino's
23 mother, Plaintiff ANDRELINA, at the County Jail on July 25, 2015, who warned that her
24 son had been arrested for threatening to commit suicide. Defendant DOE 1 told Plaintiff
25 ANDRELINA that he knew Alberto Petrolino and would take care of him.

26 26. Defendant DOE 2 was at all relevant times herein employed by Defendant
27 CITY AND COUNTY as a Sheriff's Deputy at the County Jail, and was acting within the
28 course and scope of that employment. Defendant DOE 2 spoke with Alberto Petrolino's

1 sister, Plaintiff ANGELA, on or about July 26, 2015, who warned that her brother was
2 suicidal and that County Jail staff should take precautions to protect him.

3 27. Defendant MARY LEFEVRE was at all relevant times herein employed by
4 Defendant HEALTHRIGHT360 as a marriage and family therapist for Jail Psychiatric
5 Services, and was acting within the course and scope of that employment. Defendant
6 LEFEVRE spoke with Alberto Petrolino's sister, Plaintiff ANGELA, on July 27, 2015,
7 who warned that her brother was suicidal and that County Jail staff should take precautions
8 to protect him.

9 28. Defendant NICK CRISPINO was at all relevant times herein employed by
10 Defendant HEALTHRIGHT360 as an associate social worker for Jail Psychiatric Services,
11 and was acting within the course and scope of that employment. Defendant CRISPINO
12 met with Alberto Petrolino on July 27, 2015 shortly before his bail hearing and
13 documented that he was "focused on finding out what will happen in court," yet Defendant
14 CRISPINO decided that Alberto Petrolino should not be provided a follow-up mental
15 health evaluation until July 29, 2015, two days after this critical event.

16 29. Defendant RAPHROGER GONZAGA is and was at all relevant times herein
17 employed by Defendant CITY AND COUNTY as a registered nurse for Jail Medical
18 Services, and was acting within the course and scope of that employment. Defendant
19 GONZAGA was the only medical or mental health staff member at the County Jail to
20 observe Alberto Petrolino alive after he returned from court on July 27, 2015, when she
21 discontinued his 48-hour alcohol detoxification protocol. Defendant GONZAGA failed to
22 assess how that critical event had affected Alberto Petrolino's psychiatric condition or
23 refer him for a mental health assessment by Jail Psychiatric Services.

24 30. Defendants MICHAEL MOHN and RUDY ZAMORA are and were at all
25 relevant times herein employed by Defendant CITY AND COUNTY as Sheriff's Deputies
26 at the County Jail, and were acting within the course and scope of that employment.
27 Plaintiffs are informed and believe and thereon allege that Defendants MOHN and
28 ZAMORA, along with one or more of DOES 1 through 50, were responsible for

1 monitoring the inmates housed in County Jail No. 2's F Pod on the evening of July 28,
2 2015, and failed to prevent Alberto Petrolino from entering a shower stall with a piece of
3 bedsheet and hanging himself from the shower door hinge, where he remained until he was
4 discovered by another inmate.

5 31. The true names and identities of Defendants DOES 1 through 50 are
6 presently unknown to Plaintiffs. Plaintiffs allege that each of Defendants DOES 1 through
7 50 was employed by Defendant CITY AND COUNTY, Defendant HEALTHRIGHT360,
8 and/or by the California Highway Patrol at the time of the conduct alleged herein.
9 Plaintiffs allege that each of Defendants DOES 1 through 50 was deliberately indifferent to
10 Alberto Petrolino's medical needs and safety, failed to provide necessary medical and
11 mental health care to him and to take other measures to prevent him from attempting
12 suicide in the San Francisco County Jails, violated his civil rights, wrongfully caused his
13 death, and/or encouraged, directed, enabled, and/or ordered other defendants to engage in
14 such conduct. Plaintiffs further allege that some of Defendant DOES 1 through 50 were
15 responsible for hiring, screening, training, retention, supervision, discipline, counseling, or
16 control of medical, mental health, custody, and/or law enforcement employees and/or
17 agents involved in the conduct alleged herein. Plaintiffs allege that as a direct and
18 proximate result of the conduct of Defendants DOES 1 through 50, including the failure to
19 provide necessary medical and mental health care and to take other measures to protect
20 Alberto Petrolino from committing suicide, and/or the failure to train, supervise, and/or
21 promulgate minimally adequate policies, procedures, customs, and practices at the San
22 Francisco County Jails to protect the health and safety of Alberto Petrolino and other
23 similarly-situated inmates, Plaintiffs suffered the injuries and damages alleged herein.
24 Plaintiffs will seek to amend this Complaint to state the names and capacities of
25 Defendants DOES 1 through 50 as soon as they have been ascertained.

26 32. Defendants EVE ZEFF, ROEL LAPITAN, RAPHROGER GONZAGA,
27 LAUREN ERICKSON, MARY LEFEVRE, NICK CRISPINO, MICHAEL MOHN,
28 RUDY ZAMORA, DANIEL MITCHELL, and DOES 1 through 50, and each of them, to

1 the extent that they engaged in any actions or omissions alleged herein, did so under color
 2 of state law, and in the course and scope of their employment with Defendant CITY AND
 3 COUNTY and/or Defendant HEALTHRIGHT360 and/or CHP.

4 33. Plaintiffs are informed and believe and thereon allege that at all relevant
 5 times herein, Defendants, and each of them, were the agents, employees, servants, joint
 6 venturers, partners and/or co-conspirators of each of the other Defendants, and that at all
 7 times each of the Defendants was acting within the course and scope of said relationship
 8 with each other Defendant.

9 **EXHAUSTION OF PRE-LAWSUIT PROCEDURES FOR STATE LAW CLAIMS**

10 34. On January 19, 2016, Plaintiffs filed tort claims pursuant to California
 11 Government Code §§ 910 *et seq.*, including survival claims on behalf of decedent Alberto
 12 Petrolino, with California's Victim Compensation and Government Claims Board (the
 13 "Claims Board") against Defendant MITCHELL and each of DOES 1 through 50 (if any)
 14 who were employed by the California Highway Patrol. By correspondence dated March
 15 25, 2016, the Claims Board notified Plaintiffs that it had rejected their tort claims at its
 16 meeting on March 17, 2016. On January 20, 2016, Plaintiffs filed tort claims pursuant to
 17 California Government Code §§ 910 *et seq.*, including survival claims on behalf of
 18 decedent Alberto Petrolino, against Defendant CITY AND COUNTY and all individual
 19 Defendants who are or were employed thereby. By correspondence dated February 10,
 20 2016, Defendant CITY AND COUNTY rejected Plaintiffs' tort claims.

21 35. By correspondence dated February 1, 2016, Plaintiffs notified Defendants
 22 CITY AND COUNTY, ZEFF, LAPITAN, ERICKSON, LEFEVRE, CRISPINO, and
 23 GONZAGA of Plaintiffs' intent to file suit against them based on their negligence in
 24 providing professional health care services, as required by California Code of Civil
 25 Procedure § 364.

26 **FACTUAL ALLEGATIONS**

27 36. Alberto Petrolino ("Alberto") was born in Brazil on February 10, 1965. As a
 28 child, Alberto immigrated to the United States with his family, including his mother

1 ANDRELINA, his sister ANGELA, and his brother ALEX. Alberto's family lived for
2 several years in Pittsburgh, Pennsylvania before settling in Fremont, California. After
3 graduating high school, Alberto attended Chabot College in Hayward, California, where he
4 met his future wife. Alberto was married to Ana Petrolino ("Ana") for 14 years before
5 they divorced in 2004. Ana and Alberto had a son and daughter together, FABIO and M.P.
6 After they married, Ana and Alberto moved to San Francisco, California, where Alberto
7 worked as a chef in high-end restaurants. In 1998, Alberto opened his own restaurant,
8 Terra Brazilis, in the Hayes Valley neighborhood of San Francisco. Owning a restaurant
9 created a lot of stress for Alberto, and he began to struggle with alcoholism, contributing to
10 the failure of his business and the end of his marriage.

11 37. Over the years, Alberto was sometimes able to stop drinking for months or
12 years at a time, including successfully completing a two-year rehabilitation program at the
13 Delancey Street Foundation's residential treatment facility in San Francisco, but he was
14 still struggling with alcohol dependency at the time of his death. Over the last several
15 years of his life, including for much of 2015, Alberto lived with his mother ANDRELINA
16 and his brother ALEX, and maintained a very close relationship with his sister ANGELA.
17 Alberto continued to work in the restaurant industry, including as a chef. FABIO and M.P.
18 loved their father and had looked forward to developing a closer relationship with him
19 once Alberto turned his life around. At the time of Alberto's death, FABIO was 21 and
20 M.P. was 15.

21 38. Defendants CITY AND COUNTY and HEALTHRIGHT360 and their
22 agents and employees—including law enforcement officers, County Jail staff, and medical
23 and mental health professionals—had extensive contacts with Alberto in the last years of
24 his life, putting them on notice of his alcohol dependency and mental health care needs.

25 39. In or around October 2009, Alberto dropped out of a twelve-month
26 residential rehabilitation program at the Jericho Project in Daly City, California, relapsing
27 when he was about two weeks away from attaining one year of sobriety. Shortly
28 thereafter, on or about October 14, 2009, Alberto was taken into custody by the San

1 Francisco Police Department after his girlfriend called 911 to report that Alberto had left
2 her a voicemail threatening to commit suicide by jumping off of the Golden Gate Bridge.
3 Because the 911 call indicated that Alberto posed a danger to himself, he was brought to
4 S.F. General Hospital, pursuant to California Welfare and Institutions Code § 5150, for
5 psychiatric evaluation and treatment. Defendant CITY AND COUNTY's records
6 document that Alberto's girlfriend told the police that Alberto "has had a history of
7 suicidal thoughts," that Alberto previously "stole a knife and wanted to cut his wrist," and
8 that Alberto "is often suicidal when drinking."

9 40. On or around December 29, 2009, Alberto was booked into custody at the
10 County Jail. Defendant CITY AND COUNTY's records document that Alberto reported
11 to a Jail Health Services nurse at intake that he was currently feeling depressed and that
12 when he was depressed in the past, he had thought about committing suicide. Alberto also
13 reported that he had suffered major losses heightening his suicide risk, including that he
14 had recently dropped out of an alcohol rehabilitation program, that his girlfriend had
15 broken up with him, and that he had lost his job, his car, his home, his phone, and his
16 belongings. The following day, on December 30, 2009, a Jail Psychiatric Services mental
17 health provider met with Alberto at the County Jail for a mental health status evaluation.
18 According to Defendant CITY AND COUNTY's records, Alberto was "on the verge of
19 tears" during the evaluation and was "upset about his life choices," and reported that
20 "when he is on a drinking binge he will often have hopeless thoughts like he'd be 'better
21 off dead'."

22 41. In the last year of his life, Alberto was arrested and booked into custody at
23 least four times at the San Francisco County Jails after he had been drinking alcohol in
24 excess, before his final arrest on July 25, 2015. In each instance, Defendant CITY AND
25 COUNTY's agents and employees—including Defendants ZEFF, LAPITAN, and
26 GONZAGA—identified that Alberto was intoxicated and initiated alcohol detoxification
27 protocols. For instance, on July 11, 2015, Alberto was arrested and booked into Defendant
28 CITY AND COUNTY's custody at County Jail No. 1. During intake, Alberto was

1 interviewed by Defendant LAPITAN, a Jail Health Services nurse, who determined that
2 Alberto was intoxicated and that he was at a medium risk of suffering from alcohol
3 withdrawal, and placed on him on an alcohol detoxification protocol. Alberto was
4 assigned to a general population housing pod in County Jail No. 2, where he remained
5 until he was ordered to attend an alcohol treatment program and released by the Court on
6 July 21, 2015. However, Alberto failed to appear at the program and, as a result, on July
7 24, 2015, two bench warrants were issued for his arrest.

8 42. On July 25, 2015, Alberto called his ex-girlfriend Debra from a payphone
9 near the Golden Gate Bridge and left a voicemail threatening to kill himself if they could
10 not be together. Concerned that Alberto would act on his threat, Debra called 911 and
11 reported that Alberto had threatened to commit suicide and that she feared that he was
12 going to jump off of the Golden Gate Bridge. The California Highway Patrol (“CHP”)
13 responded to Debra’s 911 call. Golden Gate Bridge Patrol Officer C. Robles found
14 Alberto asleep and intoxicated on a bench at the Golden Gate Bridge’s East Lot and
15 Defendant MITCHELL, a CHP Officer, arrived at the scene shortly thereafter. Defendant
16 MITCHELL observed that Alberto was intoxicated, and smelled alcohol on his breath and
17 person. Defendant MITCHELL called Debra, who Plaintiffs are informed and believe and
18 thereon allege repeated to him that she feared that Alberto would act on his threat to kill
19 himself. Defendant MITCHELL then called Alberto’s sister, ANGELA, and left her a
20 voicemail reporting that Alberto had been detained at the Golden Gate Bridge after
21 threatening to kill himself. ANGELA promptly returned the call, informed Defendant
22 MITCHELL that Alberto had attempted suicide in the past, and requested that Alberto be
23 brought to a hospital because ANGELA believed that he posed a danger to himself.

24 43. Although Defendant MITCHELL knew that Alberto had recently threatened
25 to commit suicide by jumping off of the Golden Gate Bridge and had just been found
26 intoxicated there, and although he had received warnings from Alberto’s ex-girlfriend and
27 sister that they feared that Alberto would follow through on his threat to kill himself,
28 Defendant MITCHELL did not bring Alberto to a hospital for psychiatric evaluation and

1 treatment, pursuant to California Welfare and Institutions Code § 5150. Defendant
2 MITCHELL instead placed Alberto under arrest on the two misdemeanor bench warrants
3 issued by the Court on July 24, 2015, including for failure to appear at the alcohol
4 treatment program as ordered on July 21, 2015, and brought Alberto to County Jail No. 1.

5 44. When Defendant MITCHELL brought Alberto to County Jail No. 1 for
6 booking, Defendant ZEFF, a Jail Health Services Registered Nurse, was conducting the
7 medical triage to determine whether arriving arrestees' medical or mental health problems
8 necessitated being sent to S.F. General Hospital for evaluation by medical and/or mental
9 health professionals before being accepted into custody by the County Jail. On July 25,
10 2015 at or around 4:06 pm, Defendant ZEFF conducted a medical triage of Alberto.
11 Defendant MITCHELL told Defendant ZEFF the circumstances of Alberto's arrest,
12 including that he had been found intoxicated at the Golden Gate Bridge after telling his ex-
13 girlfriend that he was going to kill himself there.

14 45. Despite Defendant ZEFF's knowledge that Alberto presented a high risk of
15 suicide due to his intoxicated state at the time of his arrest, his known history of alcohol
16 dependence, and his very recent threat of suicide and possible aborted suicide attempt at
17 the Golden Gate Bridge, Defendant ZEFF accepted Alberto into custody at the County Jail
18 rather than sending him to S.F. General Hospital. Moreover, although the written policies
19 of Defendants CITY AND COUNTY and HEALTHRIGHT360 authorize any custody or
20 medical personnel at the County Jails to "initiate safety cell placement upon receiving
21 information that alerts them to potential suicide risk" and require that "[u]pon recognition
22 that an inmate is at risk for suicide, the inmate is placed in a safety cell for monitoring until
23 the inmate can be further assessed by a mental health professional," Defendant ZEFF did
24 not place Alberto in any type of special cell for protection of persons at risk of suicide.

25 46. On July 25, 2015 at or around 5:15 pm, Defendant LAPITAN, a Jail Health
26 Services Registered Nurse, conducted a medical intake screening of Alberto. Plaintiffs are
27 informed and believe and thereon allege that Defendant LAPITAN reviewed Defendant
28 CITY AND COUNTY's records of the triage interview conducted by Defendant ZEFF

1 when Alberto was accepted into custody at County Jail No. 1, and was thus aware that
2 Alberto had been arrested at the Golden Gate Bridge after threatening to kill himself.
3 Defendant LAPITAN documented that Alberto was intoxicated and placed him on an
4 alcohol detoxification protocol, just as she did two weeks earlier after his July 11, 2015
5 arrest. Despite Defendant LAPITAN's knowledge that Alberto presented a high risk of
6 suicide due to his intoxicated state at the time of his arrest, his known history of alcohol
7 dependence, and his very recent threat of suicide and possible aborted suicide attempt at
8 the Golden Gate Bridge, and in violation of the written policies of Defendants CITY AND
9 COUNTY and HEALTHRIGHT360, Defendant LAPITAN did not place Alberto in any
10 type of special cell for monitoring pending a mental health assessment upon receiving
11 information alerting her that he was at risk for suicide.

12 47. On July 25, 2015 at or around 7:13 pm, Defendant ERICKSON, an
13 unlicensed Jail Psychiatric Services mental health provider employed by Defendant
14 HEALTHRIGHT360, conducted a mental health status evaluation of Alberto. Defendant
15 ERICKSON was aware that Alberto had been arrested at the Golden Gate Bridge after he
16 had threatened to kill himself there, and that he was on an alcohol detoxification protocol.
17 According to Defendant CITY AND COUNTY's records, Defendant ERICKSON
18 reviewed Alberto's medical records, including those documenting that Alberto had
19 previously been evaluated as a potential suicide risk at the County Jail and that he had
20 previously been taken into custody for psychiatric evaluation and treatment, pursuant to
21 California Welfare and Institutions Code § 5150, after telling his girlfriend that he was
22 going to commit suicide by jumping off of the Golden Gate Bridge. Although Defendant
23 ERICKSON documented "Problem Behavior" of Alberto, demonstrating that she knew
24 that he posed a high risk of suicide—including "daily alcohol consumption; history of PES
25 [S.F. General Hospital's Psychiatric Emergency Services] contact for reported suicidal
26 ideation; detoxing from alcohol; on JMS [Jail Medical Services] alcohol detox protocol;
27 relatively unknown to BHS [Jail Behavioral Health Services]; irritable mood; [and]
28 minimally participative in BHS inter[v]iew"—Defendant ERICKSON decided that Alberto

1 should be housed in the general population at the County Jails, with no suicide prevention
2 precautions other than putting a “Do Not House Alone” code on his housing card, a widely
3 discredited response to suicidality that simply relies on the existence of a cellmate to
4 protect against self-harm by the person at risk of suicide.

5 48. Plaintiffs are informed and believe and thereon allege that custody, medical
6 and mental health staff at the San Francisco County Jails, including Defendants ZEFF,
7 LAPITAN, ERICKSON, and some of Defendant DOES 1 through 50, recklessly ignored
8 the obvious and known heightened risk of suicide presented by Alberto, and failed to
9 summon medical care or take any other action so that Alberto would receive mental health
10 treatment or to otherwise reduce his risk and opportunity to commit suicide at the County
11 Jails. These Defendants failed to place Alberto in an Observation Cell, where he would
12 have been under “intensive observation,” including direct observation safety checks twice
13 every 30 minutes and at least daily evaluation by mental health professionals, and without
14 access to materials that could be used for self-harm. These Defendants also failed to house
15 Alberto in the Observation Area Housing in Pod C of County Jail No. 2, which was and is
16 used by Defendant CITY AND COUNTY to house inmates who are not considered
17 actively suicidal but have expressed suicidal ideation and/or have a recent prior history of
18 suicidal behavior. Plaintiffs are informed and believe and thereon allege that in the
19 Observation Area Housing, Alberto would have been housed in a cell with a glass door
20 permitting ongoing direct observation by custody and medical staff, with daily evaluations
21 by mental health professionals, and without access to materials that could be used for self-
22 harm, such as bedsheets. Instead, Defendants assigned Alberto to County Jail No. 2’s
23 Intake and Classification Pod, also known as F Pod, which is intended to house general
24 population inmates who are not at risk of suicide.

25 49. San Francisco County Jail custody and medical personnel, including some of
26 Defendants DOES 1 through 50, received additional warnings of the suicide risk presented
27 by Alberto after he was booked into Defendant CITY AND COUNTY’s custody. Within
28 hours of Alberto’s arrival at County Jail No. 1, his mother ANDRELINA went to the

1 County Jail to warn the jailers, including some of Defendants DOES 1 through 50, that
2 Alberto had been arrested after threatening to commit suicide. ANDRELINA was not
3 permitted to see Alberto but spoke with a Sheriff's Deputy, Defendant DOE 1, who told
4 ANDRELINA that he usually worked night shifts at the County Jail, that he knew Alberto,
5 and that he would take care of her son. Additionally, Alberto's sister ANGELA called the
6 County Jail on July 25, 2015 and on each of the following two days to warn that Alberto
7 was suicidal. On or about July 26, 2015, ANGELA called the County Jail and spoke with
8 a Sheriff's Deputy, Defendant DOE 2, expressed her concern for Alberto's safety, and
9 asked whether he was on suicide watch or in specialized housing for people who pose a
10 danger to themselves, but Defendant DOE 2 simply responded that Alberto had been
11 assigned to general population because he had been arrested on an outstanding warrant.

12 50. On the morning of July 27, 2015, ANGELA called the County Jail and spoke
13 with Defendant LEFEVRE, a Jail Psychiatric Services family and marriage therapist
14 employed by Defendant HEALTHRIGHT360, and again warned that Alberto was suicidal
15 and that precautions should be taken to protect him from self-harm. Defendant LEFEVRE
16 relayed ANGELA's warning to personnel at County Jail No. 2, including some of
17 Defendant DOES 1 through 50, but told ANGELA that Alberto "appeared fin[e] so he was
18 put in a regular pod with everybody."

19 51. Defendant CRISPINO, a Jail Psychiatric Services social worker employed by
20 Defendant HEALTHRIGHT360, met with Alberto later that morning of July 27, 2015,
21 about an hour after ANGELA's warning to Defendant LEFEVRE. Defendant CRISPINO
22 documented that Alberto was "[f]uture-focused on finding out what will happen in court"
23 at his bail hearing later that day, and that Alberto was hopeful that he would be released by
24 the judge and ordered into an alcohol treatment program.

25 52. It is the standard of care in jail mental health to pay special attention to
26 inmates after a critical event such as a court appearance where that inmate may receive bad
27 news. Defendant CITY AND COUNTY's own written policies recognize that "[c]ertain
28 times during confinement represent more serious threats of suicide, including ... after the

1 court disposition” Although Defendant CRISPINO knew that Alberto was going to
2 court for a bail hearing shortly after they spoke on July 27, 2015, he took no action to
3 ensure that Alberto would be assessed by a mental health professional soon after his
4 upcoming court appearance. Instead, in reckless disregard of the danger to Alberto,
5 Defendant CRISPINO recommended that Alberto’s already-scheduled follow-up mental
6 health assessment go ahead as planned on July 29, 2015, two days after the bail hearing.

7 53. During Alberto’s bail hearing on July 27, 2015, the judge set his bail at an
8 impossibly high one-hundred thousand dollars (\$100,000.00). Alberto realized that his
9 family would be unable to afford his bail and that he would not be released from jail as he
10 had anticipated. Alberto’s mother, ANDRELINA, was in court when bail was set and
11 could see that Alberto appeared to be devastated; his demeanor immediately changed and
12 ANDRELINA saw the shock and hopelessness on her son’s face. Plaintiffs are informed
13 and believe and thereon allege that, although Alberto’s public defender was not told of the
14 circumstances surrounding his arrest, including that Alberto had threatened to commit
15 suicide only two days before the bail hearing, the public defender observed that he was
16 crying and appeared very distraught, and was so worried for his health and safety that she
17 requested that the judge order that Alberto be taken to S.F. General Hospital for psychiatric
18 evaluation and treatment, pursuant to California Penal Code § 4011.6. Despite this
19 request, Alberto was returned to the general population housing pod at County Jail No. 2
20 and was never again seen or evaluated by County Jail mental health staff.

21 54. After Alberto returned from court on July 27, 2015 with the unexpected and
22 devastating news that he would remain at the County Jail indefinitely, County Jail mental
23 health staff, including Defendants CRISPINO, LEFEVRE, ERICKSON, and some of
24 DOES 3 through 50, did nothing to follow up with Alberto or assess how the unexpected
25 news had affected his psychiatric condition. The only medical staff to see Alberto alive
26 after his return from court was Defendant GONZAGA, a Jail Health Services Registered
27 Nurse who saw Alberto to fill out a form regarding his alcohol detoxification protocol. On
28 the form Defendant GONZAGA discontinued any further detoxification checks by medical

1 staff on the ground that the standard 48-hour period for detoxification checks had expired.
2 Defendant GONZAGA discontinued detoxification checks at 5:40 pm on July 27, 2015;
3 Defendant CITY AND COUNTY's records indicate that no medical or mental health staff
4 saw Alberto until he was found unresponsive in the shower stall about 26 hours later.
5 Persons who saw Alberto in court that morning observed that he was still exhibiting
6 symptoms of alcohol detoxification. Defendant GONZAGA discontinued the checks
7 through rote application of the 48-hour protocol. Had Defendant GONZAGA not
8 discontinued the checks, medical staff would have made further checks on Alberto that
9 would have interrupted his fatal decline.

10 55. Plaintiffs are informed and believe and thereon allege that after his return
11 from court on July 27, 2015, Alberto's psychiatric condition began to visibly deteriorate,
12 and that his appearance and behavior put Defendant GONZAGA and any and all custody
13 personnel who observed or interacted with him, including Defendants MOHN and
14 ZAMORA and some of Defendant DOES 1 through 50, on notice that Alberto was at risk
15 of suicide, that his psychiatric situation was dire, and that he required immediate medical
16 and/or mental health care intervention. Plaintiffs are informed and believe and thereon
17 allege that, in reckless disregard of this known and/or obvious risk, no Defendant who
18 observed or interacted with Alberto in County Jail No. 2 after he returned from his bail
19 hearing on July 27, 2015 summoned medical care or took any other action to provide
20 Alberto with mental health treatment or to otherwise reduce the risk that he would attempt
21 suicide. In reckless disregard of this known and obvious risk and/or as a result of
22 insufficient training and supervision, these Defendants failed to follow the written policies
23 of Defendants CITY AND COUNTY and HEALTHRIGHT360, which permit any
24 custodial or medical personnel to initiate protective placement upon receiving information
25 that alerts them to a potential suicide risk and requires that any "employee who observes
26 any signs of suicide or believes a prisoner may be at risk for suicide attempts, will notify
27 [Jail Psychiatric Services] immediately."

28 56. Alberto Petrolino's deteriorated mental state while in custody in County Jail

1 No. 2 resulted from and was greatly exacerbated by Defendants' deliberately indifferent
2 denial of psychiatric assessment and treatment and the grossly improper placement in a
3 non-therapeutic general population jail environment, rather than inpatient hospitalization
4 or, at minimum, specialized housing for persons at risk of suicide such as Observation
5 Area Housing. From his booking into the County Jail on July 25, 2015 through his suicide
6 on July 28, 2015, Alberto was housed in an open cell in County Jail No. 2's Intake and
7 Classification Pod that was inappropriate for a person in his unstable condition and in need
8 of psychiatric care.

9 57. On July 28, 2015, at some time between 6:30 pm and 7:30 pm, Alberto
10 entered a shower stall in County Jail No. 2's Intake and Classification Pod. On or about
11 7:35 pm, an inmate named Miguel Ruiz went to the bathroom and noticed toes under the
12 door to one of the shower stalls that were not touching the ground. Miguel Ruiz shouted
13 out that something was wrong, and the Sheriff's Deputies on duty, including Defendants
14 MOHN and ZAMORA and some of Defendant DOES 1 through 50, forced entry and
15 found Alberto unresponsive. Defendants, as a result of their own deliberate indifference,
16 negligence and/or inadequate training and supervision to render psychiatric and medical
17 treatment to severely mentally disabled prisoners, failed to timely respond and provide
18 life-saving treatment.

19 58. Plaintiffs are informed and believe and thereon allege that Defendants failed
20 to provide adequate staffing in County Jail No. 2's Intake and Classification Pod, and that
21 the Sheriff's Deputies on duty, including Defendants MOHN and ZAMORA and some of
22 Defendant DOES 1 through 50, failed to provide adequate supervision and checks to
23 monitor Alberto's mental condition and safety. As a result, Alberto was able to remain
24 unobserved in transit from his cell to the shower and to remain in the shower for a period
25 of up to an hour when he was hanging from a cut bedsheet attached to a door hinge.

26 59. Alberto was pronounced dead on the floor of County Jail No. 2's Intake and
27 Classification Pod on July 28, 2015 at 8:15 pm. The San Francisco Medical Examiner
28 later determined that the cause of death was suicide by hanging and that the hanging was

1 accomplished by means of a cut bedsheet. This means of self-harm would not have been
2 available had Alberto been appropriately housed in a jail ward at S.F. General Hospital, an
3 Observation Cell, or in the Observation Area Housing. Nor would Alberto have been left
4 unobserved on the way to and in the shower.

5 60. As a direct and proximate result of the acts and/or omissions of Defendants
6 as set forth above, Alberto Petrolino suffered the following injuries and damages:

7 a. Wrongful death, attributable to the deliberate indifference, negligence
8 and/or gross negligence of Defendants;

9 b. Violation of his due process rights, including his right to be free from
10 cruel and unusual punishment, under the Fourteenth Amendment to the United States
11 Constitution;

12 c. Violation of his right to be free from discrimination on account of his
13 mental disability in violation of Title II of the Americans with Disabilities Act and Section
14 504 of the Rehabilitation Act;

15 d. Conscious, egregious and needless physical pain and suffering, mental
16 anguish, and severe emotional distress, pursuant to federal civil rights law;

17 e. Violation of his right to life, the value of the loss of life, and the loss
18 of enjoyment of life; and

19 f. Attorney's fees and expenses.

20 61. As a direct and proximate result of the acts and/or omissions of Defendants,
21 Plaintiffs FABIO, M.P., ANDRELINA, ANGELA, and ALEX suffered the following
22 injuries and damages:

23 a. Violation of their right to freedom of association under the First and
24 Fourteenth Amendments to the United States Constitution;

25 b. Violation of their substantive due process right to be free from
26 unwarranted interference with the parent-child relationship under the Fourteenth
27 Amendment to the United States Constitution;

28 c. Needless physical pain and suffering, emotional distress, hardship,

1 suffering, shock, worry, anxiety, sleeplessness, illness, trauma, suffering, and the loss of
2 the services, society, care, and protection of Alberto Petrolino;

3 d. Loss of financial support and contributions, loss of the present value
4 of future services and contributions, and loss of economic security;

5 e. Loss of society, companionship, comfort, and protection;

6 f. Loss of care, attention, advice, and counsel;

7 g. Emotional trauma and suffering, including fear, extreme emotional
8 distress, and horror;

9 h. Burial and funeral expenses for Alberto Petrolino; and

10 i. Attorney's fees and expenses.

11 **CLAIMS FOR RELIEF**

12 **FIRST CLAIM FOR RELIEF**

13 **Cruel and Unusual Punishment in Violation of the Fourteenth Amendment to the**
14 **Constitution of the United States**

14 **(Survival Action – 42 U.S.C. § 1983)**

15 **(Against Defendants EVE ZEFF, ROEL LAPITAN, RAPHROGER GONZAGA,**
16 **LAUREN ERICKSON, MARY LEFEVRE, NICK CRISPINO, MICHAEL MOHN,**
17 **RUDY ZAMORA, DANIEL MITCHELL, AND DOES 1 THROUGH 50)**

17 62. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 61 as
18 though fully set forth herein.

19 63. Defendants knew that there was a strong likelihood that Alberto Petrolino
20 was in danger of serious personal harm and that he would try to harm himself, because:

21 a. Defendants knew that Alberto Petrolino had been arrested while
22 intoxicated at the Golden Gate Bridge shortly after threatening to commit suicide there;

23 b. Alberto Petrolino's family and ex-girlfriend had communicated to
24 Defendants their serious concerns that Alberto would follow through with his threats to
25 commit suicide and reported that he had attempted suicide in the past;

26 c. Defendants observed that Alberto Petrolino exhibited danger signs of
27 suicidality, including intoxication at the time of arrest, daily alcohol consumption, and a
28 history of alcohol dependence;

1 d. Defendants knew that Alberto Petrolino had a history of suicidal
2 ideation, including having been previously identified as a potential suicide risk at the San
3 Francisco County Jails, and having previously been involuntarily hospitalized at San
4 Francisco General Hospital, pursuant to California Welfare and Institutions Code § 5150,
5 after he had threatened to commit suicide by jumping off of the Golden Gate Bridge;

6 e. Defendants declined to send Alberto Petrolino to San Francisco
7 General Hospital for psychiatric hospitalization or for evaluation and treatment by a mental
8 health professional;

9 f. Defendants declined to place Alberto Petrolino on suicide watch or
10 house him in an Observation Cell where he would have been under “intensive
11 observation,” including direct observation safety checks twice every 30 minutes and at
12 least daily evaluation by mental health professionals, and without access to materials that
13 could be used for self-harm;

14 g. Defendants declined to house Alberto Petrolino in Observation Area
15 Housing where would have been housed in a cell with a glass door permitting ongoing
16 direct observation by custody and medical staff, with daily evaluations by mental health
17 professionals, and without access to materials that could be used for self-harm;

18 h. Defendants decided that Alberto should be housed in general
19 population at the San Francisco County Jails, with no suicide prevention precautions other
20 than putting a “Do Not House Alone” code on his housing card, which they knew to be a
21 widely discredited response to suicidality that simply relies on the existence of a cellmate
22 to protect against self-harm by the person at risk of suicide;

23 i. Defendants declined to provide Alberto Petrolino any mental health
24 treatment and did not ever provide him an evaluation by a doctor or psychiatrist;

25 j. Defendants knew that Alberto Petrolino was attending a bail hearing
26 on July 27, 2015, a critical event requiring special attention by mental health staff, yet
27 decided to wait until two days after the hearing to check on his mental health status;

28 k. Defendants knew that Alberto Petrolino was in such a devastated state

1 due to bad news he received at the bail hearing that his lawyer requested that the judge
2 order that Alberto Petrolino be involuntarily hospitalized for psychiatric evaluation and
3 treatment, yet they returned him to general population housing with no suicide precautions
4 at the San Francisco County Jails and declined to provide him with an evaluation or
5 assessment by mental health staff after the hearing;

6 l. Defendants discontinued detoxification checks on Alberto Petrolino
7 by rote application of a 48-hour intake procedure despite the fact that he was still visibly
8 suffering withdrawal symptoms in court that same morning;

9 m. Defendants observed Alberto Petrolino's deteriorating psychiatric
10 condition after the bail hearing, yet did not place him in an Observation Cell pending
11 assessment by mental health staff, summon immediate medical or mental health care, or
12 take any other suicide prevention measures;

13 n. Defendants provided inadequate staffing, safety checks, supervision,
14 and monitoring to ensure Alberto Petrolino's safety and well-being in the general
15 population housing pod to which he was assigned; and

16 o. Defendants declined to remove items from Alberto Petrolino's cell,
17 such as bedsheets, that could be used by him to commit suicide.

18 64. Defendants failed to provide necessary medical and mental health evaluation
19 and treatment and adequate supervision for Alberto Petrolino while he was in the custody
20 of Defendant MITCHELL and while he was housed at the San Francisco County Jails,
21 despite his history of suicidal ideation, his high risk of harming himself, and his need for
22 inpatient psychiatric treatment. Defendants acts and/or omissions as alleged herein,
23 including but not limited to their failure to provide Alberto Petrolino with appropriate
24 medical or psychiatric care and/or to take other measures to protect him from physical
25 harm and to prevent him from attempting suicide after receiving notice of his psychiatric
26 condition and high suicide risk, constituted deliberate indifference to Alberto Petrolino's
27 serious medical needs, health, and safety.

28 65. To the extent that Defendants' acts or omissions as alleged herein were

undertaken in a supervisory capacity, including certain acts and/or omissions of some of Defendant DOES 1 through 50, these Defendants knew and/or reasonably should have known each fact alleged in paragraph 63, *supra*, and directed their subordinates in the acts and/or omissions that resulted in the deliberately indifferent failure to protect Alberto Petrolino, and/or set in motion the series of acts and/or omissions that they knew or reasonably should have known would result in their subordinates' deliberately indifferent failure to protect Alberto Petrolino, and/or failed to act to prevent their subordinates from acts and/or omissions that they knew or reasonably should have known were occurring and knew or reasonably should have known would constitute deliberate indifference to Alberto Petrolino's safety.

66. As a direct and proximate result of Defendants' above-described conduct, Alberto Petrolino experienced physical pain, severe emotional distress, mental anguish, as well as loss of his life and other damages alleged herein.

67. The aforementioned acts and/or omissions of Defendants were willful, wanton, malicious, and oppressive, thereby justifying an award of exemplary and punitive damages to punish Defendants' wrongful conduct alleged herein and to deter such conduct in the future.

SECOND CLAIM FOR RELIEF

Municipal Liability for Violation of the Fourteenth Amendment to the Constitution of the United States (Survival Action - 42 U.S.C. § 1983) (Against Defendants CITY AND COUNTY OF SAN FRANCISCO and HEALTHRIGHT360)

68. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 67 as though fully set forth herein.

69. Defendants acts and/or omissions as alleged herein, including but not limited to their failure to provide Alberto Petrolino with appropriate medical or psychiatric care and/or to take other measures to protect him from physical harm and to prevent him from attempting suicide after notice of his psychiatric condition and high suicide risk, along with the acts and/or omissions of the Defendants in failing to train, supervise, and/or

1 promulgate appropriate policies, customs, and/or practices to prevent Alberto Petrolino's
2 and other inmates' suicides, constituted deliberate indifference to Alberto Petrolino's
3 serious medical needs, health, and safety.

4 70. The aforementioned acts and/or omissions of Defendants EVE ZEFF, ROEL
5 LAPITAN, RAPHROGER GONZAGA, LAUREN ERICKSON, MARY LEFEVRE,
6 NICK CRISPINO, MICHAEL MOHN, RUDY ZAMORA, and some or all of DOES 1
7 through 50, as well as the acts and/or omissions of other employees or agents of
8 Defendants CITY AND COUNTY and/or HEALTHRIGHT360, constituting deliberate
9 indifference to Alberto Petrolino's health and safety and violating Alberto Petrolino's civil
10 rights, were the direct and proximate result of policies and/or longstanding customs or
11 practices of Defendant CITY AND COUNTY and/or HEALTHRIGHT360. Defendants
12 CITY AND COUNTY and HEALTHRIGHT360 have inadequate policies, customs, and
13 practices for suicide prevention, identifying inmates in need of immediate mental health
14 care and/or at risk of suicide, and for providing adequate mental health treatment, and fail
15 to appropriately train and supervise custody, medical, and mental health staff at the San
16 Francisco County Jails regarding these policies, customs, and practices.

17 71. Defendants CITY AND COUNTY and HEALTHRIGHT360 knew and/or
18 reasonably should have known that the policies, customs, and practices described herein
19 were so obviously inadequate that they were likely to result in their agents and employees
20 causing inmates who require mental health treatment and who present a heightened risk of
21 suicide to suffer deprivations of their constitutional rights and, on information and belief,
22 Defendants CITY AND COUNTY and HEALTHRIGHT360 were further put on notice of
23 the dangerousness of their policies, customs, and practices because seven people had
24 previously committed suicide in the San Francisco County Jails since 2009. The failure of
25 Defendants CITY AND COUNTY and HEALTHRIGHT360 to correct their policies,
26 customs, and practices, and their training and supervision, despite notice of these
27 significant and dangerous problems, constitutes deliberate indifference to the health and
28 safety of inmates such as Alberto Petrolino who require mental health treatment and who

1 present a heightened risk of suicide.

2 72. The inadequate policies, customs, and/or practices of Defendants CITY
3 AND COUNTY and HEALTHRIGHT360 include but are not limited to an ongoing
4 pattern of deliberate indifference to the mental health needs and safety of San Francisco
5 County Jail inmates; the failure to conduct appropriate psychiatric assessments to identify
6 inmates with mental health needs and/or who pose a heightened suicide risk; the failure to
7 create and implement appropriate psychiatric treatment plans; the failure to promptly
8 evaluate and transfer to an appropriate psychiatric treatment facility San Francisco County
9 Jail inmates or newly arriving arrestees who are a potential danger to themselves; the
10 failure to take precautions to prevent suicide among high risk and mentally ill inmates,
11 including but not limited to placement on suicide watch, in Observation Cells, or in
12 Observation Area Housing; the reliance on the widely discredited policy of using a “Do
13 Not House Alone” code as a response to suicidality that simply relies on the existence of a
14 cellmate to protect against self-harm; the failure to provide mental health status evaluations
15 after a critical event, such as a court appearance where an inmate may receive bad news, to
16 assess the inmate’s psychiatric stability and suicide risk; the application of a rote 48-hour
17 detoxification protocol without regard to current symptoms of inmates suffering from
18 alcohol withdrawal; and the failure to provide adequate staffing, security checks,
19 supervision, and monitoring in general population units in the San Francisco County Jails,
20 especially in units where inmates have unsupervised access to enclosed spaces such as
21 shower stalls and are not restricted access to materials that can be used for self-harm.

22 73. Defendants CITY AND COUNTY and HEALTHRIGHT360 tacitly
23 encouraged, ratified, and/or approved of the acts and/or omissions alleged herein, and
24 knew that such conduct was unjustified and would result in violations of constitutional
25 rights by its agents and employees.

26 74. The customs, policies, and practices of Defendants CITY AND COUNTY
27 and HEALTHRIGHT360 were a direct and proximate cause of Alberto Petrolino’s injuries
28 and death in that Defendant CITY AND COUNTY and HEALTHRIGHT360 failed to

adequately train or supervise its agents and employees to prevent the occurrence of the constitutional violations suffered by Alberto Petrolino and by other similarly-situated inmates at the County Jail, as described herein, and failed to promulgate appropriate policies or procedures or take other measures to prevent the constitutional violations suffered by Alberto and by other similarly-situated County Jail inmates.

75. As a direct and proximate result of Defendants' above-described conduct, Alberto Petrolino experienced physical pain, severe emotional distress, mental anguish, as well as loss of his life and other damages alleged herein.

76. The aforementioned acts and/or omissions of Defendants were willful, wanton, malicious, and oppressive, thereby justifying an award of exemplary and punitive damages to punish Defendants' wrongful conduct alleged herein and to deter such conduct in the future.

THIRD CLAIM FOR RELIEF

Loss of Freedom of Association in Violation of the First and Fourteenth Amendments to the Constitution of the United States (42 U.S.C. § 1983) (Against All Defendants)

77. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 76 as though fully set forth herein.

78. The aforementioned acts and/or omissions of Defendants in being deliberately indifferent to Alberto Petrolino's health and safety and violating his civil rights and their failure to train, supervise, promulgate appropriate policies, customs, and/or practices, and/or take other measures to prevent the conduct that caused the untimely and wrongful death of Alberto Petrolino also deprived Plaintiffs FABIO, M.P., ANDRELINA, ANGELA, and ALEX of their right to familial association as protected by the First Amendment to the United States Constitution.

79. The First Amendment protects certain intimate human relationships that presuppose deep attachments and commitments to the necessarily few other individuals with whom one shares not only a special community of thoughts, experiences, and beliefs

1 but also distinctively personal aspects of one's life. Alberto Petrolino was one such
 2 individual for his son, FABIO, his daughter, M.P., his mother, ANDRELINA, his sister,
 3 ANGELA, and his brother, ALEX.

4 80. As a direct and proximate result of the aforementioned acts and/or omissions
 5 of Defendants, these Plaintiffs suffered injuries and damages as alleged herein, due to the
 6 death of Alberto Petrolino.

7 81. The aforementioned acts and/or omissions of Defendants were willful,
 8 wanton, malicious, and oppressive, thereby justifying an award of exemplary and punitive
 9 damages to punish Defendants' wrongful conduct alleged herein and to deter such conduct
 10 in the future.

11 **FOURTH CLAIM FOR RELIEF**

12 **Loss of Parent-Child Relationship in Violation of Substantive Due Process Clause of** 13 **the Fourteenth Amendments to the Constitution of the United States** 14 **(42 U.S.C. § 1983)** **(Against All Defendants)**

15 82. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 81 as
 16 though fully set forth herein.

17 83. The aforementioned acts and/or omissions of Defendants in being
 18 deliberately indifferent to Alberto Petrolino's health and safety and violating his civil
 19 rights and their failure to train, supervise, promulgate appropriate policies, customs, and/or
 20 practices, and/or take other measures to prevent the conduct that caused the untimely and
 21 wrongful death of Alberto Petrolino also deprived Plaintiffs FABIO, M.P., and
 22 ANDRELINA of their liberty interest in the parent-child relationship, in violation of their
 23 substantive due process rights as defined by the Fourteenth Amendment to the United
 24 States Constitution.

25 84. As a direct and proximate result of the aforementioned acts and/or omissions
 26 of Defendants, these Plaintiffs suffered injuries and damages as alleged herein, due to the
 27 death of Alberto Petrolino.

28 85. The aforementioned acts and/or omissions of Defendants were willful,

1 wanton, malicious, and oppressive, thereby justifying an award of exemplary and punitive
 2 damages to punish Defendants' wrongful conduct alleged herein and to deter such conduct
 3 in the future.

4 **FIFTH CLAIM FOR RELIEF**

5 **Violations of Title II of the Americans with Disabilities Act** 6 **and Section 504 of the Rehabilitation Act of 1973** 7 **(Against Defendants CITY AND COUNTY OF SAN FRANCISCO and** 8 **HEALTHRIGHT360)**

8 86. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 85 as
 9 though fully set forth herein.

10 87. The conduct of Defendants, and of their officials, managers, agents and/or
 11 employees, as alleged herein, violates Title II of the Americans with Disabilities Act
 12 ("ADA"), 42 U.S.C. §§ 12101, *et seq.*, and the federal regulations promulgated pursuant
 13 thereto. At all times relevant to this action, the ADA, 42 U.S.C. §§ 12101 *et seq.*, was in
 14 full force and effect in the United States.

15 88. Alberto Petrolino was a qualified individual with a disability, as that term is
 16 defined in Section 504 of the Rehabilitation Act, 29 U.S.C. § 705(20), and as defined in
 17 the ADA, 42 U.S.C. § 12131(2), as a person with a mental disability that substantially
 18 limits one or more major life activities, including Alberto Petrolino's ability to care for
 19 himself and avoid suicidal ideation and acts of self-harm.

20 89. The ADA, 42 U.S.C. § 12132, prohibits public entities from discriminating
 21 against a qualified individual with a disability in the provision of services, programs, or
 22 activities. Defendant CITY AND COUNTY is a public entity under Title II of the ADA.

23 90. Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, prohibits any
 24 program or activity receiving federal financial assistance from denying a qualified
 25 individual with a disability the benefits of the program or activity or discriminating against
 26 the qualified individual with a disability because of the disability. Defendants CITY AND
 27 COUNTY and HEALTHRIGHT360 receive federal financial assistance as that term is
 28 used in 29 U.S.C. § 794.

1 91. Alberto Petrolino was discriminated against in the provision of appropriate
2 institutional placement and medical and/or mental health services by Defendants, and
3 denied the benefits of the services, programs, and activities of Defendants CITY AND
4 COUNTY and HEALTHRIGHT360 in the San Francisco County Jails because of his
5 mental disability, in that he was not placed in a setting or provided appropriate services to
6 reasonably accommodate his mental disability, and in that he was denied the service of a
7 reasonably safe environment by the failure of Defendants and their agents and employees
8 to take precautions to protect him from engaging in self-harm.

9 92. The officials, managers, agents, and employees of Defendants CITY AND
10 COUNTY and HEALTHRIGHT360 were engaged and acting within the scope of their
11 employment when they engaged in the aforementioned acts and/or omissions that violated
12 the ADA and the Rehabilitation Act, and thus Defendants CITY AND COUNTY and
13 HEALTHRIGHT360 are liable for said conduct under the doctrine of respondeat superior
14 and/or through ratification. In addition, Defendant HEALTHRIGHT360 and its officials,
15 managers, agents, and employees were engaged and acting pursuant to a contract with
16 Defendant CITY AND COUNTY to provide mental health care services to inmates in the
17 custody of the San Francisco County Jails, and thus Defendant CITY AND COUNTY is
18 vicariously liable for said conduct under the ADA's implementing regulations. *See* 28
19 C.F.R. § 35.130(b)(1).

20 93. Defendants CITY AND COUNTY and HEALTHRIGHT360 had actual
21 and/or constructive notice that the aforementioned acts and/or omissions, as alleged herein,
22 would be substantially likely to result in violations of the ADA and the Rehabilitation Act,
23 as the above-described reasonable accommodations were required by law and/or
24 regulation, and the need for these reasonable accommodations was obvious, yet
25 Defendants CITY AND COUNTY and HEALTHRIGHT360 deliberately failed to take
26 action to prevent said substantially likely violations by their agents and employees.

27 94. The aforementioned acts and/or omissions of Defendants, as alleged herein,
28 were malicious, reckless, and/or accomplished with a wanton or conscious disregard of

1 Alberto Petrolino's rights.

2 95. As a proximate result of said wrongful conduct by Defendants CITY AND
3 COUNTY and HEALTHRIGHT360, Alberto Petrolino suffered injuries and damages as
4 alleged herein.

5 **SIXTH CLAIM FOR RELIEF**

6 **Violation of the Unruh Civil Rights Act, Cal. Civ. Code §§ 51 and 52**
7 **(Against Defendants CITY AND COUNTY OF SAN FRANCISCO and**
8 **HEALTHRIGHT360)**

8 96. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 95 as
9 though fully set forth herein.

10 97. Alberto Petrolino was an individual protected under the Unruh Civil Rights
11 Act as a person with a mental disability.

12 98. Alberto Petrolino was discriminated against in the provision of appropriate
13 institutional placement and medical and/or mental health services by Defendants, and
14 denied full and equal accommodations, advantages, facilities, privileges, or services of
15 Defendants CITY AND COUNTY and HEALTHRIGHT360 because of his mental
16 disability, in that he was not placed in a setting or provided appropriate services to
17 reasonably accommodate his mental disability, and in that he was denied the service of a
18 reasonably safe environment by the failure of Defendants and their agents and employees
19 to take precautions to protect him from engaging in self-harm.

20 99. The conduct of Defendants CITY AND COUNTY and
21 HEALTHRIGHT360, by and through their departments, agencies, divisions, programs,
22 employees and/or agents, as alleged herein, violates the Unruh Civil Rights Act,
23 specifically including Cal. Civ. Code §§ 51(b) and 51(f).

24 100. As a proximate result of Defendants' discrimination because of Alberto
25 Petrolino's mental disability and failure to provide full and equal accommodations to him,
26 Alberto Petrolino suffered injuries and damages as alleged herein.

27 101. Plaintiffs are also entitled to recover a statutory civil penalty of twenty-five
28 thousand dollars (\$25,000.00), as provided in Cal. Civ. Code § 52(b).

SEVENTH CLAIM FOR RELIEF

**Professional Negligence/Medical Malpractice
(Survival Actions – Cal. State Law)
(Against Defendants CITY AND COUNTY OF SAN FRANCISCO, ZEFF,
LAPITAN, GONZAGA and some of DOES 3 through 50)**

102. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 101 as though fully set forth herein.

103. At all relevant times herein, Defendants ZEFF, LAPITAN, and GONZAGA were Registered Nurses licensed in the State of California and/or held themselves out to be licensed nurses. Plaintiffs are informed and believe and thereon allege that each of the aforementioned Defendants, as well as some of Defendants DOES 3 through 50, were at all relevant times herein “health care providers,” as defined in California Civil Code § 3333.2.

104. Defendants named herein, by virtue of their employment relationship with Defendant CITY AND COUNTY, were at all relevant times herein immediately and directly responsible for the availability and provision of medical and mental health care services, including diagnosis and treatment, to all inmates in Defendant CITY AND COUNTY’s custody at the San Francisco County Jails and/or the jail wards at the San Francisco General Hospital. Accordingly, these Defendants were responsible for the health and safety of inmates and the availability and provision of professional medical and mental health treatment to inmates, including Alberto Petrolino.

105. At all relevant times, Defendants named herein had a duty to render reasonable professional medical and mental health care to Alberto Petrolino, to identify his risk of suicidality, and to take reasonable protective measures to protect him from causing harm to himself, consistent with the standards of reasonably competent health care providers in similar circumstances.

106. Defendants named herein negligently and/or recklessly failed to possess and/or exercise that reasonable degree of knowledge and skill that is ordinarily possessed and exercised by other health care providers in the same or similar locality and in similar

1 circumstances, in that, among other things:

2 a. Defendants failed to appropriately assess and/or evaluate Alberto
3 Petrolino's mental health state and suicidality;

4 b. Defendants failed to recommend appropriate treatment, housing, and
5 suicide prevention measures for Alberto Petrolino;

6 c. Defendants failed to summon medical or mental health care for
7 Alberto Petrolino or to refer him to a doctor, psychiatrist, or other medical or mental health
8 provider for assessment, evaluation, and/or treatment, despite having actual or constructive
9 notice of Alberto's serious and obvious medical and mental health care needs;

10 d. Defendants failed to recommend that Alberto Petrolino be placed on
11 suicide watch, in an Observation Cell, or in Observation Area Housing, where he would
12 have been under close observation by custody staff, with daily evaluations by mental
13 health professionals, and without access to materials that could be used for self-harm;

14 e. Defendants approved Alberto Petrolino's placement in general
15 population housing with no suicide prevention precautions other than putting a "Do Not
16 House Alone" code on his housing card, a widely discredited response to suicidality that
17 simply relies on the existence of a cellmate to protect against self-harm;

18 f. Defendants failed to summon mental health staff to check on Alberto
19 Petrolino's mental health condition after a court appearance where he was likely to receive
20 bad news, a critical event requiring special attention by mental health staff to assess an
21 inmate's suicide risk and psychiatric stability, despite his visibly deteriorating mental
22 condition; and

23 g. Defendants discontinued detoxification checks on Alberto Petrolino
24 by rote application of a 48-hour intake procedure despite the fact that he was still visibly
25 suffering withdrawal symptoms in Court that same morning.

26 107. Any one of the above-described negligent and/or reckless actions or
27 omissions falls below the duty of care consistent with the standards of reasonably
28 competent health care providers in the field.

108. As a direct and proximate result of this negligence and/or recklessness, and failure to meet the professional standards of care, Alberto Petrolino suffered the injuries and damages as alleged herein.

109. The conduct of the individual Defendants, as alleged herein, was committed within the course and scope of their employment with Defendant CITY AND COUNTY.

EIGHTH CLAIM FOR RELIEF

**Failure to Furnish/Summon Medical Care
(Survival Action – Cal. Gov’t Code § 845.6)
(Against Defendants CITY AND COUNTY OF SAN FRANCISCO, EVE ZEFF,
ROEL LAPITAN, RAPHROGER GONZAGA, MICHAEL MOHN, RUDY
ZAMORA, and some or all of DOES 1 through 50)**

110. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 109 as though fully set forth herein.

111. Defendants owed Alberto Petrolino a duty of care to furnish him immediate medical and mental health care.

112. The conduct of Defendants ZEFF, LAPITAN, GONZAGA, MOHN, ZAMORA, and of some or all of DOES 1 through 50, as alleged herein, including but not limited to the fact that each Defendant knew or had reason to know that Alberto Petrolino was in need of immediate medical and/or mental health care due to his obviously deteriorating mental state at the San Francisco County Jails and his heightened risk of suicide, and that each Defendant failed to take reasonable action to summon or provide that necessary medical and/or mental health care, resulting in Alberto Petrolino’s death, violated California law, including California Government Code § 845.6.

113. The conduct of the individual Defendants, as alleged herein, was committed within the course and scope of their employment with Defendant CITY AND COUNTY.

114. As a direct and proximate result of Defendants’ breach of their duty to furnish immediate medical and mental health care, Alberto Petrolino suffered injuries and damages causing great pain and leading to his death, as alleged herein.

115. The aforementioned acts of Defendants were willful, wanton, malicious, and oppressive, thereby justifying an award to Plaintiffs of exemplary and punitive damages to

1 punish the wrongful conduct alleged herein and to deter such conduct in the future. On
 2 this cause of action, Plaintiffs seek exemplary and punitive damages against non-medical
 3 Defendants only (*i.e.*, Defendants MOHN, ZAMORA and those among DOES 1 through
 4 50 who are not health care providers).

5 **NINTH CLAIM FOR RELIEF**

6 **Wrongful Death** 7 **(Cal. Code Civ. Proc. § 377.60)** 8 **(Against All Defendants)**

8 116. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 115 as
 9 though fully set forth herein.

10 117. At all times herein mentioned, all Defendants were subject to a duty of care
 11 to avoid causing unnecessary physical harm and death to persons in their custody. The
 12 wrongful conduct of Defendants, as alleged herein, did not comply with the standard of
 13 care to be exercised by reasonable persons and as such breached Defendants' duty, causing
 14 Alberto Petrolino and Plaintiffs to suffer harm.

15 118. Alberto Petrolino's death was a direct and proximate result of the
 16 aforementioned wrongful and/or negligent acts and/or omissions of Defendants, as alleged
 17 herein. Defendants' acts and/or omissions thus were also a direct and proximate cause of
 18 Plaintiffs' injuries and damages, as alleged herein.

19 119. As a direct and proximate result of Defendants' wrongful and/or negligent
 20 acts and/or omissions, Plaintiffs incurred expenses for funeral and burial expenses in an
 21 amount to be proved.

22 120. As a direct and proximate result of Defendants' wrongful and/or negligent
 23 acts and/or omissions, Plaintiffs suffered injuries and damages as alleged herein, including
 24 the loss of the services, society, care, and protection of Alberto Petrolino, and the loss of
 25 the present value of his future services to his family. Plaintiffs are further entitled to
 26 recover prejudgment interest.

27 121. The aforementioned acts of Defendants were willful, wanton, malicious, and
 28 oppressive, thereby justifying an award to Plaintiffs of exemplary and punitive damages to

1 punish the wrongful conduct alleged herein and to deter such conduct in the future. On
 2 this cause of action, Plaintiffs seek exemplary and punitive damages against non-medical
 3 Defendants only (*i.e.*, Defendants MITCHELL, MOHN, ZAMORA and those among
 4 DOES 1 through 50 who are not health care providers).

5 **PRAYER FOR RELIEF**

6 WHEREFORE Plaintiffs pray for the following relief:

7 1. For compensatory, general, and special damages against each Defendant,
 8 jointly and severally, in an amount to be proven at trial;

9 2. For damages related to loss of familial relations as to Plaintiffs FABIO,
 10 M.P., ANDRELINA, ANGELA, and ALEX, including damages for loss of the services,
 11 society, companionship, comfort, care, attention, advice, counsel, and protection of the
 12 decedent;

13 3. For general damages for decedent Alberto Petrolino's conscious, egregious,
 14 and needless physical pain and suffering, mental anguish, and emotional trauma and
 15 suffering, including fear, extreme emotional distress, and horror;

16 4. For hedonic damages for the value of the loss of decedent Alberto
 17 Petrolino's life and the loss of enjoyment of life;

18 5. For general damages including damages for physical and emotional pain,
 19 emotional distress, hardship, suffering, shock, worry, anxiety, sleeplessness, illness,
 20 trauma and suffering, loss of enjoyment of life, the loss of the services, society, care, and
 21 protection of the decedent, as well as the loss of financial support and contributions, loss of
 22 the present value of future services and contributions, and loss of economic security;

23 6. For funeral and burial expenses and incidental expenses not yet ascertained;

24 7. For prejudgment interest;

25 8. For statutory treble damages pursuant to Cal. Civ. Code § 52(a);

26 9. For a statutory civil penalty in the sum of \$25,000, pursuant to Cal. Civ.
 27 Code § 52(b);

28 \\\

1 10. For punitive and exemplary damages against the appropriate Defendants, as
2 set forth herein, against said Defendants in an amount appropriate to adequately punish
3 Defendants and deter others from engaging in similar misconduct, in amounts according to
4 proof;

5 11. For costs and reasonable attorneys' fees pursuant to 42 U.S.C. § 1988, 42
6 U.S.C. § 12205, 29 U.S.C. § 794a, Cal. Civ. Code § 52(a), Cal. Code. Civ. Proc. § 1021.5,
7 and as otherwise authorized by statute or law; and

8 12. For such other relief as the Court may deem proper.

9 **DEMAND FOR JURY TRIAL**

10 Plaintiffs hereby demand trial by jury in this action.

11
12 DATED: June 2, 2016

Respectfully submitted,

13 ROSEN BIEN GALVAN & GRUNFELD LLP
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15 By: /s/ Ernest Galvan
16 Ernest Galvan

17 Attorneys for Plaintiffs
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